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Attorney for Plaintiffs

**IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE DISTRICT OF UTAH, CENTRAL DIVISION**

IN RE ALAN WAYNE STREBECK and  
LINDA JOYCE STREBECK,  
Debtors,

Bankruptcy No. 10-36036 (Chapter 7)  
Bankruptcy Court, Dist. of Utah  
Adversary Proceeding No: 11-02242

THOMAS SMITH; SANDRA YEE-SMITH;  
SUZANNE BECKLES; RONALD  
BANFORD; and VERONICA BANFORD,

Plaintiffs,

v.

ALAN WAYNE STREBECK; LINDA  
JOYCE STREBECK; CHRIS CHANDLER;  
FULL MOON CAPITAL, LLC, a Nevada  
limited-liability company; KENSINGTON  
HOLDINGS, LLC, a Nevada limited-liability  
company; STREBECK'S SYNERGY  
GROUP, INC., and DOES 1-50,

Defendants.

**District Court Case: 2:13-cv-27-DB  
Hon. Dee Benson**

**PLAINTIFFS' MOTION TO  
ALTER OR AMEND JUDGMENT**

## **I. INTRODUCTION, GROUNDS, AND PRECISE RELIEF SOUGHT**

Pursuant to Fed. R. Civ. P. 59(e), plaintiffs Thomas Smith and Sandra Yee-Smith (“plaintiffs”) request the Court to alter or amend the JUDGMENT IN A CIVIL CASE entered by the court clerk on February 14, 2014 as ECF Document No. 18 (“**Current Judgment**”). More specifically, plaintiffs ask that the Court enter the proposed judgment attached hereto as Exhibit 1 (“**Proposed Judgment**”) as it more accurately conforms to the Court’s ORDER GRANTING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT dated January 14, 2014, ECF Document No. 17 (“**MSJ Order**”). Also, the Current Judgment contains a confusing typographical error that must be corrected.

## **II. FACTUAL BACKGROUND**

The following are statements of facts referred to herein as “SOF”:

**SOF 1.** On October 11, 2013, Plaintiffs filed PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT, ECF Document no. 13 (“**Plaintiffs’ Motion**”). The motion asked the Court to rule, *inter alia*, that: (a) defendants had violated Federal and Utah securities laws, and (b) that plaintiffs be awarded the consideration they paid for securities, interest, and costs, and (c) that the judgment be declared non-dischargeable pursuant to 11 U.S.C.A. § 523(a)(19). *See, e.g., Plaintiffs’ Motion, ECF 13 at 3-4 ¶¶ 8-11.*

**SOF 2.** The only response to Plaintiffs’ Motion was DEFENDANTS ALAN AND LINDA STREBECK’S RESPONSE TO PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT, ECF Document 14 (“**Defendants’ Response**”), in which defendants admitted the factual allegations in Plaintiffs’ Motion. *See Defendants’ Response at 1.* Defendants also asked that they should get credit for any payments they make pursuant to a criminal restitution order. *Id. at 3-4.*

**SOF 3.** On January 14, 2014, the Court entered the MSJ Order, granting Plaintiffs’ Motion in full and agreeing with Defendants’ request that the judgment amount be reduced by the payments made by defendants to the plaintiffs. *MSJ Order at 1-2.*

**SOF 4.** On February 14, 2014, the court clerk entered the Current Judgment. It does not include some of the relief request in the Plaintiffs Motion and granted through the MSJ Order. Also,

it states that the judgment amount is “\$1,196.000”. *See, Current Judgment.* The use of a period instead of a comma could cause confusion if the judgment amount is just over one thousand dollars or more than a million dollars. The docket text for the Current Judgment states: “CLERK'S JUDGMENT-IT IS ORDERED AND ADJUDGED that judgment be entered in favor of the plaintiffs Thomas Smith and Sandra Yee-Smith and against the defendants in the amount of \$1,196.00.” *See, Exhibit 2.*

### **III. ARGUMENT**

Motions to alter or amend judgments may be filed within 28 days after entry of the judgment. *Fed. R. Civ. P. 59(e).* The Current Judgment was entered today, February 14, 2014. Thus, this motion is timely.

The Court’s MSJ Order granted plaintiff the relief sought in Plaintiffs’ Motion, including their request for a judgment stating that (a) defendants had violated Federal and Utah securities laws, (b) that plaintiffs be awarded the consideration they paid for securities, interest, and costs, and (c) that the judgment be declared non-dischargeable pursuant to 11 U.S.C.A. § 523(a)(19). *SOF 1.* The Current Judgment does not include several of these items. *SOF 4.* In fact, the Current Judgment contains a typographical error that results in the Court’s records indicating the judgment amount is only one one-thousandth of the principal amount owed, and awards nothing for interest or costs. *SOF 4.*

To correct the Current Judgment and ensure the Court’s judgment conforms to its MSJ Order, Plaintiffs request that the Current Judgment be stricken and replaced with the proposed judgment attached as Exhibit 1, or that the Current Judgment be amended such that it contains the terms in the proposed judgment.

February 14, 2014

UTAH LITIGATION CENTER

/s/ Victor Sipos  
By Victor Sipos  
Attorney for plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on the date indicated below sent a PDF copy of the foregoing document as an email attachment to the following individuals:

Cameron Hancock, Esq.  
Kirton McConkie Building  
50 East South Temple, Suite 400  
Salt Lake City, UT 84111  
Email: chancock@kmclaw.com

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427W 100 S  
St. George, Utah  
Email: chambynic@gmail.com

February 14, 2014

UTAH LITIGATION CENTER

/s/ Victor Sipos  
By Victor Sipos  
Attorney for plaintiffs

# **EXHIBIT 1**

Victor A. Sipos, Utah Bar No. 9211  
UTAH LITIGATION CENTER  
10421 South Jordan Gateway, Suite 600  
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Attorney for Plaintiffs

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Defendants.

Bankruptcy No. 10-36036 (Chapter 7)  
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**District Court Case: 2:13-cv-27-DB  
Hon. Dee Benson**

**JUDGMENT IN A  
CIVIL CASE**

Pursuant to this Court's Order Granting Plaintiffs' Motion for Summary Judgment dated January 14, 2014, the Court enters Judgment as follows:

1. Plaintiff Thomas Smith is awarded judgment, jointly and severally against defendants Full Moon Capital, LLC; Alan Strebeck; and Chris Chandler as follows:

|  |                |
|--|----------------|
| Principal Amount .....                         | \$1,110,000.00 |
| Prejudgment Interest (through 01/31/2014)..... | \$565,228.70   |
| Costs (\$363.39/2).....                        | \$181.70       |
| Total .....                                    | \$1,675,410.40 |

2. Plaintiff Sandra Yee-Smith is awarded judgment, jointly and severally against defendants Full Moon Capital, LLC; Alan Strebeck; and Chris Chandler as follows:

|  |                 |
|--|-----------------|
| Principal Amount .....                         | \$86,000.00     |
| Prejudgment Interest (through 01/31/2014)..... | \$38,051.28     |
| <u>Costs (\$363.39/2)</u> .....                | <u>\$181.70</u> |
| Total .....                                    | \$124,232.98    |

3. Any unpaid portion of the Principal Amount above shall accrue post-judgment interest at the rate of 12% per annum pursuant to Utah Code Ann. § 61-1-22 until paid.

4. This judgment results from the violation of Sections 12(a)(1), 12(a)(2) of the Securities Act of 1933; Section 15 of the Securities Exchange Act of 1934; Sections 61-1-1(2), 61-1-7, and 61-1-3 of The Utah Uniform Securities Act. This judgment is non-dischargeable pursuant to 11 U.S.C.A. § 523(a)(19).

5. The amounts owed to plaintiffs Thomas Smith or Sandra-Yee Smith through this judgment shall be reduced by any future amount paid by Alan Wayne Strebeck to plaintiffs, respectively, pursuant to court-ordered restitution in State of Utah v. Alan Wayne Strebeck, Fifth District Court, Washington County, State of Utah, Case No. 111500728. Amounts paid prior to the date of this judgment have already been factored into the amounts shown above. This judgment shall be augmented by the amount of reasonable costs and attorney's fees expended in collecting said judgment by execution or otherwise as shall be established by affidavit or stipulation of the parties.

IT IS SO ORDERED:

DATED: \_\_\_\_\_, 2014

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Hon. Dee Benson  
United States District Judge

# **EXHIBIT 2**



Victor Sipos <[victor@siposlaw.com](mailto:victor@siposlaw.com)>

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## Activity in Case 2:13-cv-00027-DB Yee-Smith et al v. Strebeck et al Clerk's Judgment

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**utd\_enotice@utd.uscourts.gov** <[utd\\_enotice@utd.uscourts.gov](mailto:utd_enotice@utd.uscourts.gov)>  
To: [ecf\\_notice@utd.uscourts.gov](mailto:ecf_notice@utd.uscourts.gov)

Fri, Feb 14, 2014 at 11:05 AM

**This is an automatic e-mail message generated by the CM/ECF system. If you need assistance, call the Help Desk at (801) 524-6851.**

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US District Court Electronic Case Filing System

District of Utah

### Notice of Electronic Filing

The following transaction was entered on 2/14/2014 at 11:05 AM MST and filed on 2/14/2014

**Case Name:** Yee-Smith et al v. Strebeck et al

**Case Number:** [2:13-cv-00027-DB](#)

**Filer:**

**WARNING: CASE CLOSED on 02/14/2014**

**Document Number:** [18](#)

**Docket Text:**

**CLERK'S JUDGMENT-IT IS ORDERED AND ADJUDGED that judgment be entered in favor of the plaintiffs Thomas Smith and Sandra Yee-Smith and against the defendants in the amount of \$1,196.00. The amount of the judgment shall be reduced by any restitution payments made by the defendants to the plaintiffs. Signed by Louise S. York. Case Closed. (jmr)**

**2:13-cv-00027-DB Notice has been electronically mailed to:**

Cameron M. Hancock [chancock@kmclaw.com](mailto:chancock@kmclaw.com), [dolson@kmclaw.com](mailto:dolson@kmclaw.com)

Victor A. Sipos [sipos@866utahlaw.com](mailto:sipos@866utahlaw.com), [docket@866utahlaw.com](mailto:docket@866utahlaw.com), [victor.sipos@gmail.com](mailto:victor.sipos@gmail.com)

Nicholas I. Chamberlain [chambynic@gmail.com](mailto:chambynic@gmail.com), [dadamoon@gmail.com](mailto:dadamoon@gmail.com)

Bankruptcy Clerk's Office [UTB\\_Appeals@utb.uscourts.gov](mailto:UTB_Appeals@utb.uscourts.gov)

**2:13-cv-00027-DB Notice has been delivered by other means to:**

Full Moon Capital  
c/o Incorp Services, Inc  
2360 CORPORATE CIR STE 400  
HENDERSON, NV 89074